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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/901,078  | 07/10/2001  | Rebecca Lynn Siegl   | 47004.000089        | 7083             |
| 21967   | 7590        | 04/05/2007           | EXAMINER            |                  |
| HUNTON & WILLIAMS LLP<br>INTELLECTUAL PROPERTY DEPARTMENT<br>1900 K STREET, N.W.<br>SUITE 1200<br>WASHINGTON, DC 20006-1109 |             |                      | KARMIS, STEFANOS    |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 3691                |                  |
| SHORTENED STATUTORY PERIOD OF RESPONSE  | MAIL DATE   | DELIVERY MODE        |                     |                  |
| 3 MONTHS  | 04/05/2007  | PAPER                |                     |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 09/901,078             | SIEGEL ET AL.       |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Stefano Karmis         | 3691                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 18 January 2007.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 39-47, 49-66 and 68-86 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 39-47, 49-66 and 68-86 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/13/2002</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

1. The following communication is in response to Applicant's amendment filed 18 January 2007.

### *Status of Claims*

2. Claims 39, 58, 77, 79-82 and 84-86 are currently amended. Claims 39-47, 49-66 and 68-86 are currently pending.

### *Claim Rejections - 35 USC § 101*

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 39-47, 49-57, 77-81 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

With respect to claim 39, the Examiner finds the claim to lack a tangible result. In order to be a tangible result, the process must produce a real-world result. The final step of independent claim 39 states, "assigning a score to the account agent or agents based on the account metric, wherein the assigning operation is performed using the processor and wherein the score is used to evaluate the account agent or agents." This step is not considered tangible because it could be considered abstract or merely encompassed in thoughts. Therefore claim 39 does not produce a real world result. Amending the claim to include a step directed towards storing, printing or displaying the assigned score or something similar would overcome the

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rejection. Independent claim 77 contains language that also fail to produce a real world result and are therefore rejected as failing to produce a tangible result as discussed above for claim 39. Dependent claims 40-47, 49-57 and 78-81 fail to produce a tangible result and therefore stand rejected under the same reasoning for Independent claims 39 and 77.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 39-47, 49-66 and 68-86 rejected under 35 U.S.C. 103(a) as being unpatentable over Keyes et al. (hereinafter Keyes) U.S. Patent 6,456,983 in view of Land et al. (hereinafter Land) U.S. Patent 6,807,533 in further view of How to Monitor Collectors (hereinafter Rial).

Regarding independent claims 39, 58, 77 and 82, Keyes teaches receiving a baseline status of an account from an account database; retrieving an updated status of the account from an account database after a predetermined period of time; comparing the baseline status to the updated status, wherein the comparing operation is performed using a processor (column 4, line 43 thru column 5, line 22); generating an account metric based on the step of comparing the baseline status to the updated status, the account metric including a weighting according to at least a change in the level of delinquency of the account, wherein the generating operation is

performed using the processor (column 5, line 57 thru column 6, line 36). Keyes further teaches a liquidation profile which are representative of how historical delinquent accounts within a particular historical portfolio group recovered over time and can be based upon payments made to a collection agency (column 7, lines 41-65).

Land teaches receiving baseline account status as well as updated account status (column 13, line 37-49 and column 14, lines 8-15 and Figures 18-20). Land teaches managing account receivables in which credit officers receive a performance evaluation for collecting on delinquencies which are monitored and become part of the credit officer's performance evaluation (column 11, lines 45 thru column 12, line 3). An account metric is generated by a percentage of available accounts receivables as well as forecasted collections are monitored and reported (column 11, lines 45-60).

Keyes and Land fail to teach assigning a score to the account agent based on the account metric wherein the score is used to evaluate the agent. Rial teaches a method for monitoring collectors in which individual collectors are monitored by supervisors and given a score (page 1). These call monitoring scores or other collector measurements are included in employee performance evaluations (page 3). Therefore it would be obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the collection teachings of Keyes to include the collection teachings of Land along with performance evaluations for the collection agents because it provides an incentive to the collection agent. Further it would be obvious to modify Keyes and Land to include the scoring teachings of Rial because it provides a more comprehensive method for measuring the credit officer's ability to apply company policy. Land teaches that the responsibility of a credit officer is to manage accounts and to build a customer

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service oriented rapport with the customer (column 13, lines 3-7). Land also teaches that credit officers are given a yearly performance evaluation (column 11, lines 45-60). Land and Keyes fail to teach scoring of the agent however. Rial teaches scoring employees for their effectiveness in following and applying the company's policies and procedures which can be included in performance evaluations (page 3), like the evaluations taught by Land.

Claims 40 and 59, multiplying an account balance by the change in level of delinquency of the account (column 5, line 57 thru column 6, line 36).

Claims 41, 60, 78 and 83, Keyes fails to teach monthly buckets associated with a change in the level of delinquency. Land teaches buckets associated with a change in the level of delinquency (column 10, lines 8-24). Therefore it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Keyes and include buckets because they provide an accurate representation of the delinquency of an account on a month-to-month basis.

Claims 42, 61, 80 and 85, Keyes teaches generating account metric based on multiple factors. Keyes fails to teach generating based on a risk rating. Land teaches a risk code utilized during the collection process. Therefore it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Keyes and include risk codes because they provide an associated parameter used when assessing delinquent accounts and possible collection strategies.

Claims 43 and 62, generating an account metric by multiplying an account balance by an outcome rating (column 5, line 57 thru column 6, line 36).

Claims 44-47 and 63-66, Keyes teaches that the account is a financial account (column 4, lines 25-41). Keyes fails to specify that the financial account is a revolving credit account or mortgage account. Official notice is taken that payment on revolving credit account and mortgage accounts are old and well known in the financial arts. Therefore it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Keyes and include revolving credit account and mortgage accounts because they are financial accounts that require payment and required a collection effort when in a delinquent state.

Claims 49, 50, 66 and 68, aggregating the account metric for each of a plurality of account to generate an aggregate metric (column 5, line 57 thru column 6, line 36).

Claims 51- 53 and 70-72, Keyes fails to teach generating reports consist of reports for agents, teams, groups, divisions and corporate. Land teaches a performance evaluation and report to track a credit officer in the collection of delinquent accounts (column 11, line 46 thru column 12, line 3). Therefore it would have been obvious to one of ordinary skill in the art that the teachings of Keyes could have been modified to include the credit officer performance evaluation teachings of Land because it provides an efficient manner to monitor the collectors of

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delinquent accounts. The delinquent accounts taught by Keyes already contain a weighted scoring parameter and therefore associating the scoring of the account and liquidation profile with a credit officer (agent) would result in increased efficiency by the agent and a greater probability of collecting on a delinquent account as intended by Keyes.

Claims 54, 55, 73 and 74, Keyes fails to specify that the predetermined period of time is a period less than a statement period. Official Notice is taken that elapsing time to check on an account is old and well known in the art. Therefore it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Keyes and include specified period of time of less than a statement because it provides plenty of opportunities to review an account status and continuously have information to the delinquency level of the account and try to prohibit accounts from falling to far into a delinquent state.

In support of the official notice the Examiner points Applicant to U.S. Patent 5,483,444 (column 5, lines 34-44; Examiner notes discussion for verifying credits given to a travel agent wherein the award system waits a predetermined period of time such as 10 days to verify the customer used a hotel reservation).

Claims 56, 57, 75 and 76, Keyes teaches a network interface to view account metrics. Keyes fails to specify presenting a network interface such as a webpage to view the account metric. Land teaches web browser access to interface with account metrics and aid with the collection process (column 3, line 66 thru column 4, line 4).

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Claims 79, 81, 84 and 86, Keyes fails to teach providing a score to an account agent based on the account metric of payment amount and outcome rating. Land teaches a web-based method and system for managing account receivables in which credit officers receive a performance evaluation for collecting on delinquencies (column 11, lines 45 thru column 12, line 3). Therefore it would have been obvious to one of ordinary skill in the art that the teachings of Keyes could have been modified to include the credit officer performance evaluation teachings of Land because it provides an efficient manner to monitor the collectors of delinquent accounts. The delinquent accounts taught by Keyes already contain a weighted scoring parameter and therefore associating the scoring of the account and liquidation profile with a credit officer (agent) would result in increased efficiency by the agent and a greater probability of collecting on a delinquent account as intended by Keyes.

***Response to Arguments***

7. Applicant's arguments filed 18 January 2007 have been fully considered but they are not persuasive as discussed below.

Applicant argues that the combination of Keyes in view of Land in view of Rial fails to disclose using a change in the level of delinquency to evaluate account agent performance. In Response: Both Keyes and Land teach generating account metrics. For example, Land teaches targets imposed on credit officers during collections (column 11, lines 45-60). These targets can be considered account metrics because they take the percent to available receivables and forecasted collections monitored on a monthly basis (column 11, lines 45-60). This particular

account metric is rooted in the change of delinquency in the account (total receivables balance less not dues). Land also teaches that the responsibility of a credit officer is to manage accounts and to build a customer service oriented rapport with the customer (column 13, lines 3-7). Land also teaches that credit officers are given a yearly performance evaluation (column 11, lines 45-60). Therefore Land does teach using a change in the level of delinquency to evaluate an account agent performance. Land fails to teach scoring of the agent however. Rial teaches scoring employees for their effectiveness in following and applying the company's policies and procedures which can be included in performance evaluations (page 3). Therefore the combination of Keyes, Land and Rial do teach using a change in the level of delinquency to monitor an agent's performance.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Keyes teaches a method for evaluating delinquent accounts (Abstract). Keyes teaches liquidation profiles that are indicative of how a historical delinquent account within a historical portfolio has financially recovered over a period of time (column 7, lines 62-65). Keyes teaches debt collection techniques by collection agencies (column 7, lines 20-65). As discussed above, Land teaches credit officers in charge of collection on delinquent accounts

and Rial teaches scoring employees. Therefore it would be obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the collection teachings of Keyes to include the collection teachings of Land along with performance evaluations for the collection agents because it provides an incentive to the collection agent. Further it would be obvious to modify Keyes and Land to include the scoring teachings of Rial because it provides a more comprehensive method for measuring the credit officer's ability to apply company policy. As discussed above Land teaches that the responsibility of a credit officer is to manage accounts and to build a customer service oriented rapport with the customer (column 13, lines 3-7). Land also teaches that credit officers are given a yearly performance evaluation (column 11, lines 45-60). Land and Keyes fail to teach scoring of the agent however. Rial teaches scoring employees for their effectiveness in following and applying the company's policies and procedures which can be included in performance evaluations (page 3), like the evaluations taught by Land.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

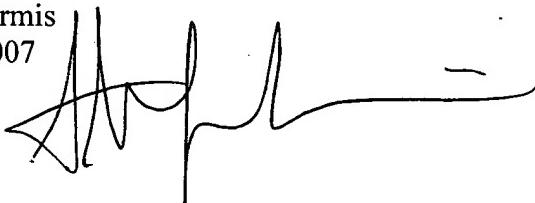
***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefano Karmis whose telephone number is (571) 272-6744. The examiner can normally be reached on M-F: 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alex Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Respectfully Submitted  
Stefano Karmis  
01 April 2007

A handwritten signature in black ink, appearing to be "Stefano Karmis", is written over a stylized, abstract graphic element consisting of several intersecting and overlapping curved lines and loops.